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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,391	05/25/2000	Akiro Sato	0694-132	6158
7590 05/04/2004			EXAMINER	
BRADLEY N. RUBEN 463 FIRST STREET SUITE 5A HOBOKEN, NJ 07030-1859			ROBERTS, PAUL A	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/578,391

Applicant(s)

SATO, A

Examiner

Paul A Roberts

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 and 17-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 11 and 15 is/are rejected.
- 7) ☒ Claim(s) 5-10 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims 12-14 and 17-22 drawn to an invention nonelected with traverse on 9/30/03. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-4, 11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaster et al. (Kaster) 5234447. Kaster discloses, "An anastomosis member to be arranged at an anastomosed site of first and second blood vessels to carry out the anastomosis of said first and said second blood vessels, said anastomosis member having a generally cylindrical body comprising at least one plate member (the device's flat sides compose the plate member) to be brought into contact with both of said first and said second blood vessels, said plate member having integral therewith a plurality of protuberances (44) formed on at least one of opposite surfaces thereof to be engaged with at least one of said first and said second blood vessels so as to prevent the dislocation of said first and said second blood vessels at said anastomosed site, each said plurality of protuberances being formed from and extending from said body plate member having been formed by deformation of said plate member, and having been formed without leaving an aperture in said body plate member. Note, in the applicant's device the protuberances appear to be pulled from the plate member. While this may not be true in Kaster

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et al., this feature isn't claimed. Bending the plate member is understood to be within the scope of deforming the plate member.

3. Regarding claim 2, the Kaster device has at least two cylindrical bodies. The lower shafts (43) compose a cylindrical body. The upper shafts from which elements 44 extend also form a cylindrical body. The connecting member is the ring in the center.

4. Regarding claim 3, the Kaster device can be compressed.

5. Regarding claim 4, the spring region is comprises elements 43 and the lower shafts. The low-rigidity part comprises elements 44 and the upper shafts.

6. Regarding claim 11, the anastomosis member is made of stainless steel.

7. Regarding claim 15, the steps of: "Inserting said anastomosis member into lumens of said first and said second blood vessels; bringing said plate member into contact with at least one of said first and said second blood vessels; and engaging said first and said second blood vessels with said protuberances so as to prevent the dislocation of said first and said second blood vessels at said anastomosed site," are disclosed by Kaster in figures 14-19.

***Allowable Subject Matter***

8. Claims 5-10 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: Kaster does not anticipate all the limitations of any of the various species of stents as described in claim 5-10. The language of claim 16 would require the method of performing an end-to-end anastomosis which is not suggested by Kaster.

***Response to Arguments***

9. Applicant's arguments with respect to claims 1-11 and 15 and 16 have been considered but are moot in view of the new ground(s) of rejection. For the record, the applicant's amendments to claims 1 and 15 are sufficient to overcome the rejection based on the combination of Das and Skeie.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A Roberts whose telephone number is (703) 305-7558. The examiner can normally be reached on 7:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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04/29/04



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